

I Daniel Chase file a motion for
Motion for 1:20-cv-00287-jaw

U.S. DISTRICT COURT
DISTRICT OF MAINE
BANGOR
RECEIVED & FILED

Necessity forces me to file this motion.

2020 OCT -5 P 3:44

I have cognitive issues that I can not control or change.

I move the Court to provide appropriate assistance.

My memory prevents me from retaining information
when other information quickly follows.

DEPUTY CLERK

I can not take notes and listen at the same time.

I move the Court to provide me with an assistant and additional time to get things done.

I attach a complete copy of my neuro-psych evaluation.

His interpersonal style also reflects a nonverbal learning disability. For instance, he is likely not to pick upon social cues, and thus, his knowledge is compromised.

Mr. Chase was further encouraged to develop an awareness of how his nonverbal, spatial based learning disorder affects his learning style and interpersonal relationships, as well as how he currently utilizes verbal intellectualization as a compensatory strategy.

Mr. Chase should continue to practice and use the pain management coping strategies he has learned, as **pain seems to interfere with his ability to compensate for his learning disorder.**

Ever since I was attacked by those police officers I have had increased levels of pain. As a result my cognitive ability is lower than before. My level of confusion is also worsened. Some nights I can barely get to sleep. Some days I can not think well. Other days I am fine.

If I am to lengthy in my presentations please forgive me. My paralegal friend Lloyd West is in a nursing home and due to covid-19 I can not get to him to get his help with this. He once helped me to get 16 pages down to 4. I did not see the repetition he helped remove.

I am not stupid. I have a nonverbal learning disability that is almost identical to aspergers. I have a spatial disorder instead of repetitive behaviors. That is the biggest difference between NLV and AS. I can put different pieces of information together to create a complete or complex analysis with a logical application of the facts. I spent around 10,000 hours preparing to fight 2 traffic tickets. As a result I can do research often with help of the law library and can even quote some Constitutional articles, statutes, and case law. I could not have done this without spending that excessive amount of time. I need extreme repetition to get information to stay in my memory. I have no idea how or what to do in Court.

I move the Court to take judicial notice of the following characteristics of my nonverbal learning disability. **I am literal, concrete, and see everything rigidly, as either black or white not gray. I misunderstand some concepts or statements based on phrasing or unstated implications.**

<https://files.eric.ed.gov/fulltext/ED461238.pdf>

Individuals with NLD tend to focus on details rather than on the larger picture. Therefore, they may have great difficulty setting priorities, separating the main idea from details, developing outlines, taking notes, and organizing paragraphs based on topic sentences.

The inability to separate the essentials from the details also affects interpersonal and social communications, both receptive and expressive.

<https://pwcf.org/wp-content/uploads/sites/18/2015/10/Non-Verbal-Learning-Disorder-Article.pdf>

The typical signs of Nonverbal Learning Disorder include:

- Great vocabulary and verbal expression
- Excellent memory skills
- Attention to detail, but misses the big picture
- Trouble understanding reading
- Difficulty with math, especially word problems
- Poor abstract reasoning
- Physically awkward; poor coordination
- Messy and laborious handwriting
- Concrete thinking; taking things very literally
- Trouble with nonverbal communication, like body language, facial expression and tone of voice
- Poor social skills; difficulty making and keeping friends
- Fear of new situations
- Trouble adjusting to changes
- May be very naive and lack common sense
- Anxiety, depression, low self-esteem, withdrawal.

https://web.archive.org/web/20171215215257/https://www.vermontfamilynetwork.org/wp-content/uploads/2013/07/NLD_2013_online.pdf

NLD is the least recognized among the learning disorders.

Page 7. The chief characteristics of nonverbal learning disabilities include: problems with visual-spatial organization; extreme difficulty adapting to new and complex situations; reliance on rote behaviors (which may or may not be appropriate) in new situations; trouble understanding nonverbal feedback in social situations; problems with social perception, social judgment and social interaction; very strong rote verbal abilities (e.g. large vocabulary); reliance on language as the primary means for social relating, information-gathering and relief from anxiety; **difficulties with arithmetic and, later, with scientific concepts and theories** (page 8-9)

Many characteristics associated with NLD are similar to those that describe other, more "established" disorders, such as **Asperger's Syndrome** and specific learning disabilities.
(page 10)

Individuals thought to have NLD typically demonstrate strengths in...Auditory processing skills, which entail learning better through hearing information, rather than seeing it (visual processing)

Individuals thought to have NLD generally experience difficulties in several broad categories: Complex conceptual skills involved in problem-solving, understanding cause-effect relationships, and seeing the "big picture" versus focusing on details. Visual-spatial-organizational skills, such as visualizing information and understanding spatial relations. Social skills, such as using and understanding nonverbal communication (e.g., gestures, facial expressions), dealing with new information and situations, transitioning between situations, conversation skills, and understanding the nuances of spoken language (e.g., hidden meanings, figurative language) (page 11)

How might having NLD affect a child's academic performance?

Students thought to have NLD generally do well in areas that relate to concrete thinking but have difficulty in areas that relate to abstract thinking. With regard to reading, a student with NLD may have strong word decoding skills, but may experience **difficulty with reading comprehension**, as he may miss inferences, have difficulty visualizing a story, and may not see the "big picture." Children with NLD also **experience difficulty when**

information on assignments and tests is not presented in the exact format in which it was taught [presented].

What is the difference between NLD and Asperger Syndrome?

There is a tremendous amount of controversy about what differentiates NLD and Asperger Syndrome (AS). The short answer seems to be that children with AS have more significant behavioral issues and a narrow area of interest which impedes their ability to learn...Some researchers feel that NLD is the cognitive profile found in all individuals with strictly-defined AS, while others feel that the two syndromes are distinct, but overlapping.

https://web.archive.org/web/20071122023114/https://www.education.com/reference/article/Ref_Nonverbal_Disorders/

Nonverbal Learning Disorders: What to Look For By Pamela B. Tanguay — MAAP Services for Autism and Asperger Syndrome Updated on Dec 7, 2010

As you review the characteristics outlined within this article, please keep in mind that many of the characteristics listed under one heading may, and often do, impact the individual in many areas of their lives. **The hallmark of those diagnosed with NLD appears to be their fear, and sometimes terror, of any novel situation.**

There is excellent attention to detail, but the individual will likely miss the big picture.

Concept formation and abstract reasoning may be significantly impaired.

There is likely to be great difficulty generalizing information - applying learned information to new situations.

Language/Communication

These individuals are very concrete and interpret information quite literally.

Normally, they do not process or benefit from nonverbal communication - body language, facial expressions, tone of voice may be lost on them.

They are unable to intuit or read between the lines.

Emotional/Behavioral: In all likelihood, they will have tremendous difficulty adjusting to new situations, or changes to their routine...[T]hey can be incredibly naive.

If I am not confused by Latin, Legal French, the specialty language used by the Court, or legal phraseology I can usually figure out the useful parts of a case although I often have no clue who won or lost. Only when Court cases use Latin, Legal French or Court created phrases do I normally get very confused. Most Court cases are written for a layman to understand. Completely ignoring the *replevin* and *quo warranto* style of language makes most cases understandable. I can not keep the definitions in my head to go from written definition to written Court cases. I have tried. By the time I turn my eyes back to the document the definition is lost to me. The Rules of Court are written so they confuse most laymen through their phrasing, language, or both.

I have serious short-term memory problems. I could talk to you for ½ hour and not remember your face or recall ever talking to you 3 weeks later. After a second conversation with you part of the previous conversation is often recalled. Then I can put the pieces together as has happened to me multiple times. I have been interrupted during a conversation and been unable to continue my thoughts many times.

I can learn my material well when I spend a LOT of time going over it again and again. It takes a lot of time for me to do good work. I have to go over concepts and ideas an extreme number of times to organize, justify, and prove or disprove them which often results in accidental memorization. Once the information is in my long term memory it tends to remain there. However, I can know information one day, lose it the next day, and know it again later on. This is a common problem for those with my type of learning disability.

I can not retain information when more information quickly follows. I can listen or I can take notes. I can not listen AND take notes at the same time. In school I often wrote 2 to 4 pages of notes for an entire semester. Most teachers would not be quiet long enough for me to take meaningful notes. I learned by entering a very relaxed state. I can respond to questions that are asked of me on information I have learned but not over learned but often can not explain what I know without being asked.

I can not keep more than 3 things in memory. The 4th thing completely removes the first 3. I do not always retain 3 things. Sometimes I lose just 1 thing especially if I get distracted unless I actively repeat it in my head meaning I hear nothing other than my own repeated thought.

20 years ago my boss sent me to get her breakfast at the company restaurant. She wanted 4 food items, bacon, a drink, and 2 more. I had to have a written list to get her breakfast. At a trial I can not retain information presented by the other side long enough to write it down. I discovered judges get upset when an objection is raised for every time for everything in contention. When it is my turn to speak I have no clue what I am supposed to speak against because I can not take notes and I can not remember what was said as testimony. I end up completely lost and confused. Without assistance from the Court I can not receive due process. I am due a process that I am able to understand and successfully apply. I need the Court to assist me to get past my Poor abstract reasoning, Concrete thinking, and taking things very literally.

There is no lawyer willing to go against the police in Maine, Mass, and NH per each state bar. I tried. The facts, evidence, and law are on my side. The Court uses language I can not understand. Your rules completely confuse me because of how they are phrased. Your procedures have been impossible for me to understand. Even your pro-se packet confuses me. There is so much information it overwhelms me.

https://www.wsba.org/docs/default-source/legal-community/sections/adm/resources/adm_resources_access_guide_for_wa_administrative_proceedings_2011.pdf

3. The United States Constitution Because access to the judicial process is a fundamental right, the United States Supreme Court has held that Title II of the ADA is constitutionally valid. In *Tennessee v. Lane*, the Court held that “Title II unquestionably is valid...as it applies to the class of cases implicating the accessibility of judicial services [.]”¹⁹ The Court observed that the “duty to accommodate is perfectly consistent with the well-established due process principle that ‘within the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard’ in its courts.”²⁰ This applies equally to administrative hearings.

Create a procedure by which an accommodation can be requested and investigate and ascertain what accommodation is reasonable. The 9th Circuit has said: A public entity’s duty on receiving a request for accommodation is well settled by our case law and by the applicable regulations. It is required to undertake a fact-specific investigation to determine what constitutes a reasonable accommodation... [T]he Acts create a duty to

gather sufficient information from the [disabled individual] and qualified experts as needed to determine what accommodations are necessary.³²

When a litigant's disability prevents her/him from effectively representing her/himself, providing the services of a legal advocate is the only effective accommodation. A wide variety of disabilities could require a legal advocate as an accommodation. Some examples: A person with an intellectual disability does not understand the proceeding.

Once it becomes clear that the litigant lacks the capacity to represent her/himself due to a disability, the following steps are recommended: Immediately stop the hearing and continue it to a later date. If the proceedings commence before an - accommodation is provided, it could be a violation of Title II of the ADA. Try to ascertain if the litigant currently has a guardian, legal advocate, or other representative who is not - present at the hearing. If so, that person should be contacted to determine if they will be representing the litigant at the re-scheduled hearing. If the litigant does not currently have a representative, provide for the appointment of a legal- advocate.

Ensuring equal access to justice chiefly depends on understanding that people with disabilities are people. They are not medical diagnoses like cerebral palsy; they are not devices like wheelchairs. They adapt to their disabilities and live their lives — go to school, work, get married, have families, shop for groceries, laugh, cry, vote, pay taxes, come to court — just like everyone else. Most people with disabilities prefer to be responsible for themselves. **If we believe people have a right to equal justice, and if we remember that all of us can contribute to change, things will work out better and better. Treating everyone exactly the same way doe not ensure fairness. Truly equal treatment of people with disabilities often means treating them differently. Fully accommodating an impairment is absolutely vital to ensuring that a person's due process rights are not violated. Justice can only be served if every individual has a full and meaningful opportunity to be fairly heard.**

I would like to explain this with some history. Decades ago I went to school ready to fail an algebra test. For weeks I could not understand the teacher or book. A fellow student explained algebra to me over lunch allowing me to pass that test. How information is presented to me makes a huge difference. Your information packet confuses me. I need help and clarity. Your rules should be simple. Their phrasing is not easy to get past.

Another example from my life. I flew to Florida to buy a car. I drove it about 1,800 miles home. I knew my car at every stop I made. I parked the car for a few weeks in my driveway. The day I went to register it I drove my old car past the newer car and went around 4 miles to the town office. The clerk asked me about mileage that I had written down. During that 45mph zone 4 mile trip I forgot the replacement cars color despite having driven it around 2,000 miles. My memory problems are impossible for me to overcome or predict.

The right to Court appointed counsel exists because the Court recognized how impossible it is for a well educated layman to understand, apply, and follow the Courts rules. The ADA was created and amended in 2008 to ensure due process was provided to the disabled as some Courts discriminated against the disabled including those with cognitive disorders. The ADA effective communications are a requirement based on constitutional due process and equal protection. Effective communication does not mean the speaker understands him or her self. It means the listener is able to understand what the speaker says

orally or in writing. It is not equal protection under the law if the law requires state Courts to provide effective communications while denying federal Courts have a duty to provide effective communications. Once ADA accommodations are required in one Court those ADA accommodations must be required of every Court or equal protection and due process are violated.

The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law... He is unfamiliar with the rules of evidence... He lacks both the skill and knowledge adequately to prepare his [case], even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings.... **If that be true of men of intelligence, how much more true is it of the ignorant and illiterate, or those of feeble intellect.**

If in any case, civil or criminal, a state or federal court were arbitrarily to refuse to hear a party by counsel, employed by and appearing for him, it reasonably may not be doubted that such a refusal would be a denial of a hearing, and, therefore, of due process in the constitutional sense. **Powell v. Alabama, 287 US 45 - Supreme Court 1932**

I include a few examples from my neuro-psych eval. to help explain my problem.

People with similar profiles often hold a simplistic and rigid view of a world that is characterized by extremes of good versus bad.

My rigid view, literal, concrete, and black and white thinking of mine can not be changed. It is not stubbornness. It is a physical inability to understand in any other way. I do not see shades of gray and do not believe they exist. A friend told me he does not believe black and white exist. We are both confused by how the other one sees things as we do but based on mutual respect we get along well. To me it is very clear that the rules of Court are acting as a barrier to deprive me of my rights. The rules are not supposed to deny justice but being incomprehensible to me they will do so. The more I try to read rules of Court the more confused I become. The rules will destroy my right of appeal and review unless the Court makes an accommodation designed to overcome my cognitive defects.

Rules of practice and procedure are devised to promote the ends of justice, not to defeat them. Orderly rules of procedure do not require sacrifice of the rules of fundamental justice. **Hormel v. Helvering, 312 US 552 - Supreme Court 1941**

Every state can grant extra rights that the federal Courts should recognize and apply.

Rules of Court are designed primarily to implement procedural statutes, discourage procrastination on the part of litigants and their counsel, and provide a smooth and orderly flow of litigation. They are not to be so interpreted as arbitrarily to destroy rights of appeal and review. **White v. Schofield, 134 A. 2d 755 - Me: Supreme Judicial Court 1957**

Additional neuropsychological testing revealed impairments in visual and auditory immediate memory. On tests of auditory memory, he demonstrated inefficient strategies for retaining information.

Tests of visual memory indicated that Mr. Chase failed to encode much of the initially presented information. He attended to details and overlooked the organizing principle of the stimulus material.

It is important that Mr. Chase develop strategies to enhance his understanding of the organizing principles in information with which he is being presented. In this regard, he should, in addition to attending to the details, strive to comprehend how they fit together into a larger whole. Specifically... one accommodation he might make to increase his understanding of how information fits together will be to ask the professor to provide him with lecture outlines.

I never did learn any of this. I never knew how and received no meaningful assistance. I still can not figure out how to put the pieces together for information that does not seem to fit together. Your pro-se packet does not give me a useful outline. It does not give me a useful legal education as needed to apply Court rules.

I never could create an outline before writing a paper. When I had to write an outline for a paper in junior high I had to write the paper before I could figure out how to write an outline for the paper. Writing an outline never made sense to me not then or now. Putting ideas in a logical order in various categories is one thing, making an outline is another.

With the outline as a framework, he should be able to learn to take notes relevant to each topic area. In addition, he was encouraged to make his own outlines of textbook chapters, using subheadings and paragraph structure as cues to different topic and subtopic areas.

Your pro-se packet does not help me. I do not understand it and need help.

Mr. Chase should consider joining a study group in which he can compare notes and understanding with classmates, as a means to assist him in consolidating the information and to provide him with an additional opportunity to process the information. Since Mr. Chase is vulnerable to memory interference when he engages in different tasks within a close time-frame, he is advised to space out his classes, should he decide to re-enter school.

How do I space out your requirements that I find impossible to understand and get through? I need a different yet reasonable accommodation.

When information is organized for him, Mr. Chase demonstrates High Average abstract reasoning abilities and better memory functioning. Thus, it seems that he is unable to provide an organization basis for information on his own, and in fact, **misses the organization principle that is present in the information, when it is not explicitly pointed out to him.**

I need exceptionally clear instructions. I need someone to help me understand those instructions. As much as I hate to say it I am not mentally competent to act by myself without assistance in Court. I am competent to put information together. But I can not figure out what the Court wants from me or how the Court wants me to present it. I am not even sure if I wrote the complaint correctly. The phrasing of your form confused me.

Daniel Chase
10-5-2020